

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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In the Matter of J.T.S., Minor.

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FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

LATEIA NICOLE SMITH,

Respondent-Appellant,

and

OCTAVIUS EDWARD SCOTT,

Respondent.

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UNPUBLISHED

July 26, 2002

No. 235156

Wayne Circuit Court

Family Division

LC No. 00-392905

Before: Talbot, P.J., and Cooper and D. P. Ryan\*, JJ.

PER CURIAM.

Respondent appeals as of right the trial court's order terminating her parental rights to her child pursuant to MCL 712A.19b(3)(b)(i) and (ii), (g), (j), and (k)(iii) and (v).<sup>1</sup> We affirm.

Initially, we reject respondent's assertion that the child's medical records were improperly admitted into evidence and that an emergency physician gave hearsay testimony. The physician testified from personal knowledge regarding the emergency care she and others rendered to the child. The physician's treatment was recorded in the records. The trial court did not abuse its discretion by admitting the evidence about which respondent complains. No

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<sup>1</sup> The trial court's order also terminated the parental rights of respondent Octavius Edward Scott, the father of J.T.S. Scott filed a claim of appeal from the order (Docket No. 235236); however, this Court granted the motion by appointed counsel to withdraw and affirmed the trial court's order.

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\* Circuit judge, sitting on the Court of Appeals by assignment.

reversible error occurred. *Miller v Hensley*, 244 Mich App 528, 529, 531; 624 NW2d 582 (2001). Similarly, we reject respondent's assertion that the fact the physician testified by speakerphone deprived her of her right to confront the witness. That right does not apply in child protective proceedings. *In re Brock*, 442 Mich 101, 108; 499 NW2d 752 (1993).

We also hold that the trial court did not clearly err in finding that at least one of the statutory grounds for termination was established by clear and convincing evidence. MCR 5.974(I); *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999). The evidence showed that the child received severe injuries that were consistent only with physical abuse inflicted by an adult. Respondent denied knowing how the child received the injuries; however, the evidence showed that only respondent and the child's father cared for the child during the relevant period. The trial court's finding that respondent either inflicted the injuries or failed to prevent them was not clearly erroneous under the circumstances. *Sours, supra*. The trial court did not clearly err in finding that termination of respondent's parental rights was warranted on the grounds that the parent's act caused the abuse and the parent who had the opportunity to prevent the abuse failed to do so, MCL 712A.19b(3)(b)(i) and (ii); respondent failed to provide proper care or custody for the child and could not be expected to do so within a reasonable time, MCL 712A.19b(3)(g); it was reasonably likely that the child would be harmed if returned to respondent's home, MCL 712A.19b(3)(j); and the child suffered abuse by the infliction of a battery, severe physical abuse, or a life threatening injury, MCL 712A.19b(3)(k)(iii) and (v).

Further, because at least one statutory ground for termination was established, the trial court was required to terminate respondent's parental rights unless the trial court found that termination was clearly not in the child's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 364-365; 612 NW2d 407 (2000). Based on the evidence presented, the trial court's finding regarding the child's best interests was not clearly erroneous. *Trejo, supra*.

Affirmed.

/s/ Michael J. Talbot  
/s/ Jessica R. Cooper  
/s/ Daniel P. Ryan